

## Mieles, Janette

---

**From:** McChesney, Dennis  
**Sent:** Wednesday, February 05, 2014 2:41 PM  
**To:** Taylor, Karen  
**Subject:** FW: Draft Final EQB Revised UST regulations  
**Attachments:** Comments on PR's FR section.docx; Rule 867 edits.docx

Any thoughts on this?

Dennis J. McChesney, Ph.D., MBA  
Team Leader  
UST Team  
U.S. EPA Region 2  
290 Broadway  
New York, NY 10007-1866  
Voice (212) 637- 4232  
Fax (212) 637- 4211

-----Original Message-----

From: Kwan, ChoYi  
Sent: Wednesday, February 05, 2014 2:25 PM  
To: McChesney, Dennis  
Cc: Gerber, Linda  
Subject: RE: Draft Final EQB Revised UST regulations

Dennis,

I did a quick review/comparison of the FR section and had the following comments (attached in the two word files). More broadly (and the following two comments are not in the attached files):

1. Based on EQB's response in the table about the removal of the local government options, it seems to me like EQB thinks that local government entities (i.e., municipalities) may be exempt from F/R???? EPA should make it clear that (1) only state and federal facilities are exempt and (2) even without those local government options, municipalities will still need to meet the F/R requirements using one of the options provided.
2. I don't understand EQB's response as to why all the template wordings have been removed. Without a template and by just using a generic reference to "the laws and regulations of the Commonwealth of Puerto Rico", I don't understand how owners/operators are supposed to know what the financial assurance mechanisms are supposed to say. And how would EQB enforce against a letter of credit that let's just say doesn't list EQB as a beneficiary? I will defer to R2 counsel on that.

My specific comments (these are also in the attached Word file, "Comments on PR's FR section"):

Comments on PR's F/R section.

1.865.A can be deleted.

2.865.F: as written, there is no incident (i.e., per occurrence) amount required. Therefore, this part should read: The required annual aggregate amounts of financial liability coverage required for incident and for each total by year, do not limit, in any way, the personal liability of the owner and operator.

3.866.B: missing "it" complies

4.867.B and C are completely inaccurately written. See Word file "Rule 867 edits" for rewording.

5.867.E: "cover" needs to be "coverage"

6.867.F: "cover" needs to be "coverage"

7.869.A: easiest fix – change “,” to “;” unless want to re-word sentence

8.869.C: term should be “licensed” not “authorized”. I defer to legal counsel on this one, but I think insurance companies are actually licensed by insurance commissioners.

9.870.A: Need to reference specifically to Circular 570 of the Treasury. (see 280.98(a))

10.871.A: “ja” should be “the”

11.872.A: remove extra periods

12.873.A: standby trust only applies to guarantee, surety bond, and letter of credit. The way it’s worded now implies all mechanisms need to have a standby trust.

13.873.B: “alternate” needs to be “stand by”

14.873.C: “alternate” needs to be “stand by”

15.873.D: This entire section does not read properly (i.e., does not make grammatical sense). Please compare with 280.103(c)

16.875.B: This is missing the requirement that o/o needs to notify the Board if the o/o fails to obtain alternate coverage. See last part of 280.109(b) 17.876.A needs to be re-ordered. See wording of 280.110

18.876: Missing a comparable 280.110(b) requirement (i.e., An owner or operator must certify compliance with the financial responsibility requirements of this part as specified in the new tank notification form when notifying the appropriate state or local agency of the installation of a new underground storage tank under §280.22.) -Does Puerto Rico have a new tank notification form requirement?

19.876.B: “as described in this Part” seems superfluous

20.877.B.5.: not sure this is needed. This was in the federal regs in reference to state funds, which Puerto Rico does not have.

21.877.B.6: I don’t understand how the owners know what this certification looks like if there are no wordings.

22.878.A: Currently this is to “certify” the funds??? Which makes no sense. Needs to be worded to say “place the amount of funds into the stand by trust fund if:” See 280.112(a).

23.878.A: Missing a comparable 280.112(a)(1)(i) as one of the conditions under 878.A.

24.878.B: insert “stand by” in front of “trust”

25.878.B1: Does not read properly (i.e., does not make grammatical sense). Please compare with 280.112(b)(1)

26.879: Does not read properly (i.e., does not make grammatical sense). Please compare with 280.113.

27.880.A: Does not read properly (i.e., does not make grammatical sense). Please compare with 280.114(a).

28.880.B: Does not read properly (i.e., does not make grammatical sense). Please compare with 280.114(b).

Again, this was based on my brief review over the past several hours today. Some of these do need to be addressed before the regs should go final.

Thanks,  
Cho Yi

-----  
Ms. Cho-Yi Kwan  
kwan.choyi@epa.gov  
office: 703.347.8908  
work from home: 917.881.2093

---

From: McChesney, Dennis  
Sent: Wednesday, February 05, 2014 11:55 AM  
To: Kwan, ChoYi  
Subject: FW: Draft Final EQB Revised UST regulations

Dennis J. McChesney, Ph.D., MBA  
Team Leader  
UST Team  
U.S. EPA Region 2  
290 Broadway  
New York, NY 10007-1866  
Voice (212) 637- 4232  
Fax (212) 637- 4211

From: Ospina, Janneth [mailto:JannethOspina@jca.gobierno.pr]  
Sent: Monday, February 03, 2014 10:35 AM  
To: McChesney, Dennis; Taylor, Karen  
Cc: Garcia Hernandez, Wanda; Melendez Colon, Suzette; Acosta Perez, Rebeca; Acosta Camacho, Samuel; Rodriguez Rodriguez, Ines; Roman Hernandez, Raquel; Velez Velez, Laura M  
Subject: RE: Draft Final EQB Revised UST regulations

Hi, Dennis/Karen

According the last e-mail (enclosed below), early in the morning today I met with the lawyers to verify the changes that made in the weekend according with EPA comments. As an attachment send to you a copy of the amended English version. Below in the comments table you can see the EQB answer.

Now we just wait for EPA answer to see if we can submit it to Governing Board. Lawyers are available for the conference next Wednesday if even still on the agenda. Please let us know anything about the above here. Thanks!

EPA Comment

EQB Responds

English version amended

Spanish version amended

1.

Rule 807 B.1. Piping: "corrodible" replaced with "corrosive" Two different meanings. Piping should be non-corrodible.

C.1.b.i. Spill and Overfill Prevention Equipment: Automatically shut-off the flow into the tank when the tank is no more ninety five (95) not ninety nine (99) percent full.

Mistake of Typing, EQB adopts the change.

Mistake of Typing, EQB adopts the change.

OK

OK

N/A

N/A

2.

Rule 815 Compatibility. Section C. on record maintenance deleted.

C. Owners and operators must maintain the following records in accordance Rule 817 for the life of the equipment or component:

1. Documentation of compliance with paragraph B. of this Rule, as applicable; and
2. Records of all equipment or components installed or replaced after [effective date of rule]. At a minimum, each record must include the date of installation or replacement, manufacturer, and model.

EQB accepts the suggestion and includes these requirements in Rule 817.B.5.

OK

OK

3.

Rule 816 Repairs Allowed. Section G. on record maintenance deleted.

G. UST system owners and operators must maintain records in accordance with Rule 817 of each repair until the UST system is permanently closed or undergoes a change-in-service pursuant to Rule 851.

EQB accepts the suggestion and includes these requirements in Rule 817.B.3.

.

OK

OK

4.

Note that Rule 817 Reporting and Recordkeeping has general references to records for compatibility and repairs, but lacks the specifics.

According to the above remarks requirements were included, for compatibility in Rule 817.B.3 and for repairs in Rule 817.B.5.

OK

OK

5.

Rule 863. Applicability. Financial Responsibility. Removed language that made it clear that both owner and operators were liable for noncompliance. "If the owner and operator of a petroleum underground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in the event of noncompliance."

EQB accepts the suggestion and adopts the change.

OK

OK

6.

Rule 864. All Financial Responsibility definitions deleted.

Rule 864. All Financial Responsibility definitions were not deleted, were clustered in the main list of definition.

- Accidental Release: Is already defined as release Rule 805.#115
- Bodily Injury: Rule 805.#15
- Controlling Interest: Rule 805.#32
- Executive Director of the Board: Rule 805.#50
- Financial Reporting Year: Rule 805.#56
- Financial Security Provider: Rule 805.#57
- Local Government: Rule 805.#75
- Occurrence: Is already defined as release Rule 805.#115
- Owner or Operator: Rule 805.#91 and Rule 805.#93
- Petroleum Marketing Facilities: was contemplated in Rule 805.#28; it is deleted; and the definition is adopted.
- Petroleum Marketing Firms: was contemplated in Rule 805.#28; it is deleted; and the definition is adopted.

- Property Damage: Rule 805.#38
- Provider of Financial Assurance: Rule 805.#57
- Substantial Business Relationship: Rule 805.#132
- Substantial government relationship: Rule 805.#133
- Tangible Net Worth: Rule 805.#84
- Termination: Does not make sense. It is enough to refer to Rule 869.

N/A

N/A

7.

Rule 865. Amount and Scope. Per-occurrence minimum amounts deleted.

EQB does not have the mechanisms to corroborate this criterion (average or more than 10,000 gallons of petroleum per moth based on previously calendar year).

N/A

N/A

8.

Rule 867. Financial Test of Self Insurance. Template for "Letter From Chief Financial Officer" deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

N/A

N/A

9.

Rule 868. Corporate Guarantee template deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

N/A

N/A

10.

Rule 869. Insurance and Risk Retention Group Coverage. Endorsement and Certificate of Insurance templates deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

N/A

N/A

11.

Rule 870. Surety Bond. Performance Bond template deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

N/A

N/A

12.

Rule 871. Letter of Credit. Irrevocable Standby Letter of Credit template deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

N/A

N/A

13.

Rule 872. Trust Fund. Trust Agreement template deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

N/A

N/A

14.

**\*DELETED RULES\***

After Rule 873, all Rules for local government financial responsibility deleted.

Local Government Bond Rating Test

Local Government Financial Test

Local Government Guarantee

Local Government Fund

The following rules clarify the definitions of:

- State and federal government- Rule 863.C.

- Local government- Rule 805. #75

Rule 863.C. Establishes that state and federal government entities, whose debts and liabilities are the debts and liabilities of the Commonwealth of Puerto Rico or the United States of America, are exempt from the requirements of financial responsibility.

Rule 805. #75 Establishes the definition for local government that include: municipalities or other created by law in Commonwealth of Puerto Rico.

Let us address the municipalities: Municipalities in P.R. are operating under hardship financial constraints and, actually, a few municipalities that have a UST System possess private financial insurance. Due to burdensome financial conditions that, negatively, impact the municipalities, such entities have been unable to comply with insurance financial mechanisms contained in the Regulations.

If EPA wants to maintain this wording, EQB does not object, but EQB wants to emphasize that such position could have the effects of promoting non-compliance.

Waiting for EPA response

Waiting for EPA response

15.

TYPOS AND OTHER CHANGES...

TYPOS AND OTHER CHANGES...

16.

Typo: Page 8 List of Appendices III 40 CFR Parte 302

Mistake of Typing, EQB adopts the change.

OK



OK

17.

803 EQB added exclusions to B; paragraphs 9-16

Said paragraphs (from Old Rule 105 – Definitions of Underground Storage Tank) have been clustered with Rule 803 (Old Rule 103 - Applicability).

N/A

N/A

18.

804 Interim Prohibition changed to 'no person may install an excluded UST system for the purpose of storing regulated substances.' Removed corrosion protection language.

Corrosion protection language was removed because it contradicts the prohibition established in Rule 804.A.

N/A

N/A

19.

805 Definition intro paragraph deleted.

"De minimus" definition deleted. Replaced with "Minim" definition.

EQB only changed the name "De minimus" to "Minim" definition but EQB adopts the change, will be "De minimus".

OK

No need change. Is like "de minimis"

20.

805 Definition Change to "hazardous substance" definition.

Definition comes from CERCLA, 40 CFR Part 302. Please, feel free to suggest wording.

#152. UST System for hazardous substances: A UST System that contains a hazardous substance defined in CERCLA, does not include: any substance regulated as a hazardous waste under RCRA or any mixture of such substances and petroleum.

#67. Hazardous Substance: Any substance identified as hazardous under CERCLA and the Federal Regulations (40 CFR Part 302).

N/A

N/A

21.

805 Definition: 72. Local Government: "municipalities or other created by law..." Other what?

EQB accepts suggestion and let alone municipalities.

OK

OK

22.

805 Definition: Typo: #83. NFPAL should be NFPA (National Fire Protection Association)

EQB adopts the change.

OK

N/A

23.

805 Definition: Typo: #101. Public water system ...with at least fifty (15) ...

EQB adopts the change.

OK

N/A

24.

805 Definition: Typo: #125 applicable to "UST" should be "UST Systems"

EQB adopts the change.

OK

N/A

25.

805 Definition: #132 Training: Removed reference to approval by EQB.

EQB accepts suggestion and adopts the change.

OK

OK

26.

805 Definition: Typo: #135 Training School Administrator.... "Guess" should be "Guest" Instructors.

EQB adopts the change.

OK

N/A

27.

805 Definition: #151 Violation: removed reference to Energy Policy Act

EQB accepts suggestion and adopts the change.

OK

OK

28.

809 Removed reference to EPA Notification Form.

Also, "Registration" may be more appropriate than "Register" in section title and under letters G & H.

- The reference to EPA Notification Form was deleted because all forms that will be necessary use with the regulation will be adopted by resolution from Governing Board of EQB and EPA said before that we can design our own forms guiding us out for the content of EPA form.

- EQB adopts the change.

N/A

OK

N/A

OK

29.

811 B.2. Typo: "can be carry out" carried out

EQB adopts the change.

OK

N/A

30.

Rule 828 General RD Requirements A.3. Changed "annually" to "one (1) time per year." Still required to submit to EQB with annual permit renewal, so may be equivalent.

EQB accepts suggestion and adopts the change "one (1) time per year" to "annually".

OK

OK

31.

Note: Parts V & VI. Some edits to suspected release notification and response rules.

EPA needs to be more specific to correctly identify what is at issue.

Waiting for EPA response

Waiting for EPA response

32.

Typo: Rule 865 D. "no sudden" should be "nonsudden"

EQB adopts the change.

OK

N/A

33.

Typo: Rule 867 C.4. "counter" should be "accountant"

EQB adopts the change.

OK

N/A

Janneth Ospina  
Permits Officer II  
Underground Storage Tank Control Division Water Quality Area  
Phone: 787-7678181 ext 3533  
jannethospina@jca.gobierno.pr<mailto:jannethospina@jca.gobierno.pr>

From: Ospina, Janneth  
Sent: Friday, January 31, 2014 11:11 PM  
To: mcchesney.dennis@epa.gov<mailto:mcchesney.dennis@epa.gov>;  
taylor.karen@epa.gov<mailto:taylor.karen@epa.gov>; Garcia Hernandez, Wanda; Melendez Colon, Suzette; Acosta  
Perez, Rebeca; Acosta Camacho, Samuel; Rodriguez Rodriguez, Ines  
Subject: RE: Draft Final EQB Revised UST regulations  
Importance: High

----- Original message -----

Subject: RE: Draft Final EQB Revised UST regulations  
From: Janneth Ospina <janneth25@yahoo.com<mailto:janneth25@yahoo.com>>  
To: "Ospina, Janneth" <JannethOspina@jca.gobierno.pr<mailto:JannethOspina@jca.gobierno.pr>>  
CC:

Hi Dennis, Karen

Today lawyers and I were attending Karen's comments to try to include them in the draft version and see the possibility of this not delay the process of delivering the draft to the governing board next week. We did our best and here we sent our comments. During the weekend I will be working hard to include these comments to the draft document and hope to have it by Monday and send it to you for review. Until that happens, you can review our feedback to assess if they are satisfactory and so will expedite the process.

I appreciate the help that you can give me in this matter. Have a good weekend!

Note: The comments are in table format. If you don't receive it format let me know to send it by attachment.

EPA COMMENTS: Karen L. Taylor, Office of Regional Counsel, USEPA - Region 2. December 16, 2013 EPA Comment

EQB Responds

Rule 807 B.1. Piping: "corrodible" replaced with "corrosive" Two different meanings. Piping should be non-corrodible.

C.1.b.i. Spill and Overfill Prevention Equipment: Automatically shut-off the flow into the tank when the tank is no more ninety five (95) not ninety nine (99) percent full.

Mistake of Typing, EQB adopt the change.

Mistake of Typing, EQB adopt the change.

Rule 815 Compatibility. Section C. on record maintenance deleted.

C. Owners and operators must maintain the following records in accordance Rule 817 for the life of the equipment or component:

1. Documentation of compliance with paragraph B. of this Rule, as applicable; and
2. Records of all equipment or components installed or replaced after [effective date of rule]. At a minimum, each record must include the date of installation or replacement, manufacturer, and model.

EQB accepts the suggestion and includes these requirements in Rule 817.B.5.

Rule 816 Repairs Allowed. Section G. on record maintenance deleted.

G. UST system owners and operators must maintain records in accordance with Rule 817 of each repair until the UST system is permanently closed or undergoes a change-in-service pursuant to Rule 851.

EQB accepts the suggestion and includes these requirements in Rule 817.B.3.

Note that Rule 817 Reporting and Recordkeeping has general references to records for compatibility and repairs, but lacks the specifics.

According to the above remarks requirements were included, for compatibility in Rule 817.B.3 and for repairs in Rule 817.B.5.

Rule 863. Applicability. Financial Responsibility. Removed language that made it clear that both owner and operators were liable for noncompliance. "If the owner and operator of a petroleum underground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in the event of noncompliance."

EQB accepts the suggestion and adopts the change.

Rule 864. All Financial Responsibility definitions deleted.

Rule 864. All Financial Responsibility definitions were not deleted, were clustered in the main list of definition.

- Accidental Release: Is already defined as release Rule 805.#115
- Bodily Injury: Rule 805.#15
- Controlling Interest: Rule 805.#32
- Executive Director of the Board: Rule 805.#50

- Financial Reporting Year: Rule 805.#56
- Financial Security Provider: Rule 805.#57
- Local Government: Rule 805.#75
- Occurrence: Is already defined as release Rule 805.#115
- Owner or Operator: Rule 805.#91 and Rule 805.#93
- Petroleum Marketing Facilities: was contemplated in Rule 805.#28; it is deleted; and the definition is adopted.
- Petroleum Marketing Firms: was contemplated in Rule 805.#28; it is deleted; and the definition is adopted.
- Property Damage: Rule 805.#38
- Provider of Financial Assurance: Rule 805.#57
- Substantial Business Relationship: Rule 805.#132
- Substantial government relationship: Rule 805.#133
- Tangible Net Worth: Rule 805.#84
- Termination: Does not make sense. It is enough to refer to Rule 869.

Rule 865. Amount and Scope. Per-occurrence minimum amounts deleted.

EQB does not have the mechanisms to corroborate this criterion (average or more than 10,000 gallons of petroleum per month based on previously calendar year).

Rule 867. Financial Test of Self Insurance. Template for "Letter From Chief Financial Officer" deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

Rule 868. Corporate Guarantee template deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

Rule 869. Insurance and Risk Retention Group Coverage. Endorsement and Certificate of Insurance templates deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

Rule 870. Surety Bond. Performance Bond template deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

Rule 871. Letter of Credit. Irrevocable Standby Letter of Credit template deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

Rule 872. Trust Fund. Trust Agreement template deleted.

Template was deleted because information required is defined under the laws and regulations of the Commonwealth of Puerto Rico and, as such, the petitioner must comply.

**\*DELETED RULES\***

After Rule 873, all Rules for local government financial responsibility deleted.

Local Government Bond Rating Test

Local Government Financial Test

Local Government Guarantee

Local Government Fund

The following rules clarify the definitions of:

- State and federal government- Rule 863.C.
- Local government- Rule 805. #75

Rule 863.C. Establishes that state and federal government entities, whose debts and liabilities are the debts and liabilities of the Commonwealth of Puerto Rico or the United States of America, are exempt from the requirements of financial responsibility.

Rule 805. #75 Establishes the definition for local government that include: municipalities or other created by law in Commonwealth of Puerto Rico.

Let us address the municipalities: Municipalities in P.R. are operating under hardship financial constraints and, actually, a few municipalities that have a UST System possess private financial insurance. Due to burdensome financial conditions that, negatively, impact the municipalities, such entities have been unable to comply with insurance financial mechanisms contained in the Regulations.

If EPA wants to maintain this wording, EQB does not object, but EQB wants to emphasize that such position could have the effects of promoting non-compliance.

TYPOS AND OTHER CHANGES...

TYPOS AND OTHER CHANGES...

Typo: Page 8 List of Appendices III 40 CFR Parte 302

Mistake of Typing, EQB adopt the change.

803 EQB added exclusions to B; paragraphs 9-16

Said paragraphs (from Old Rule 105 – Definitions of Underground Storage Tank) have been clustered with Rule 803 (Old Rule 103 - Applicability).



804 Interim Prohibition changed to 'no person may install an excluded UST system for the purpose of storing regulated substances.' Removed corrosion protection language.

Corrosion protection language was removed because it contradicts the prohibition established in Rule 804.A.

805 Definition intro paragraph deleted.

"De minimus" definition deleted. Replaced with "Minim" definition.

EQB only changed the name "De minimus" to "Minim" definition but EQB adopt the change, will be "De minimus".

805 Definition Change to "hazardous substance" definition.

EQB accept suggestion and adopt the CERCLA definition:

"An UST System that contain a defined in Section

101 of CERCLA but not including any substance regulated as a hazardous waste under Subtitle (C) or any mixture of such substances and petroleum, and which is not a petroleum UST system"

805 Definition: 72. Local Government: "municipalities or other created by law..." Other what?

EQB accept suggestion and let alone municipalities.

805 Definition: Typo: #83. NFPAL should be NFPA (National Fire Protection Association)

EQB adopt the change.

805 Definition: Typo: #101. Public water system ...with at least fifty (15) ...

EQB adopt the change.

805 Definition: Typo: #125 applicable to "UST" should be "UST Systems"

EQB adopt the change.

805 Definition: #132 Training: Removed reference to approval by EQB.

EQB accept suggestion and adopt the change.

805 Definition: Typo: #135 Training School Administrator.... "Guess" should be "Guest" Instructors.

EQB adopt the change.

805 Definition: #151 Violation: removed reference to Energy Policy Act

EQB accept suggestion and adopt the change.

809 Removed reference to EPA Notification Form.

Also, "Registration" may be more appropriate than "Register" in section title and under letters G & H.

- The reference to EPA Notification Form was deleted because all forms that will be necessary use with the regulation will be adopted by resolution from Governing Board of EQB and EPA said before that we can design our own forms guiding us out for the content of EPA form.

- EQB adopt the change.

811 B.2. Typo: "can be carry out" carried out

EQB adopt the change.

Rule 828 General RD Requirements A.3. Changed "annually" to "one (1) time per year." Still required to submit to EQB with annual permit renewal, so may be equivalent.

EQB accept suggestion and adopt the change "one (1) time per year" to "annually" .

Note: Parts V & VI. Some edits to suspected release notification and response rules.

EPA needs to be more specific to correctly identify what is at issue.

Typo: Rule 865 D. "no sudden" should be "nonsudden"

EQB adopt the change.

Typo: Rule 867 C.4. "counter" should be "accountant"

EQB adopt the change.

Janneth Ospina  
Oficial de Permisos II  
División de Control de Tanques Soterrados Area de Calidad de Agua  
Tel: 787-7678181 ext 3533  
jannethospina@jca.gobierno.pr<mailto:jannethospina@jca.gobierno.pr>

----- Original message -----

Subject: RE: Draft Final EQB Revised UST regulations

From: "McChesney, Dennis" <McChesney.Dennis@epa.gov<mailto:McChesney.Dennis@epa.gov>>

To: "Ospina, Janneth" <JannethOspina@jca.gobierno.pr<mailto:JannethOspina@jca.gobierno.pr>>

CC: "Garcia Hernandez, Wanda" <WandaGarcia@jca.gobierno.pr<mailto:WandaGarcia@jca.gobierno.pr>>,"Melendez Colon, Suzette" <suzettemelendez@jca.gobierno.pr<mailto:suzettemelendez@jca.gobierno.pr>>,"Acosta Perez, Rebeca" <rebecaacosta@jca.gobierno.pr<mailto:rebecaacosta@jca.gobierno.pr>>,"Acosta Camacho, Samuel" <samuelacosta@jca.gobierno.pr<mailto:samuelacosta@jca.gobierno.pr>>,"Taylor, Karen" <Taylor.Karen@epa.gov<mailto:Taylor.Karen@epa.gov>>

Janneth:

Somehow I missed sending our attorney Karen Taylor's comments to you, and I take responsibility for this oversight and any delay that this causes. They are, however, very important and we are not agreeable to them not being incorporate prior to public comment. I realize that this will slow things down a bit but hopefully not too much. We need EQB to send EPA (Karen and I) the current version of the draft regulations that you are planning to submit to the Board next week for approval. Also, EQB should provide us with an email response/rationales for the changes made to the draft

regulations subsequent to your last conference call with Rebecca Jamison & Bethany Barnhart. Significantly, we are concerned about the proposal to not require Financial Assurance for government (e.g. municipalities) owned/operated USTs since this is a federal requirement. Perhaps we can also schedule a conference call next week so that our attorney, Karen Taylor, and I can discuss with EQB. Wednesday February 5 sometime between 10 am and 2 pm will work for us if that is agreeable to EQB.

Thank you,

Dennis

Dennis J. McChesney, Ph.D., MBA  
Team Leader  
UST Team  
U.S. EPA Region 2  
290 Broadway  
New York, NY 10007-1866  
Voice (212) 637- 4232  
Fax (212) 637- 4211

From: Ospina, Janneth [mailto:JannethOspina@jca.gobierno.pr]  
Sent: Thursday, January 30, 2014 12:12 PM  
To: McChesney, Dennis  
Cc: Garcia Hernandez, Wanda; Melendez Colon, Suzette; Acosta Perez, Rebeca; Acosta Camacho, Samuel  
Subject: RE: Draft Final EQB Revised UST regulations

Dennis,  
Our lawyer and I read the comments and are not representing substantial changes so no problem, because these reviews will be attend in the comment period. Thanks, Janneth

From: McChesney, Dennis [mailto:McChesney.Dennis@epa.gov]  
Sent: Thursday, January 30, 2014 12:09 PM  
To: Ospina, Janneth  
Cc: Garcia Hernandez, Wanda  
Subject: RE: Draft Final EQB Revised UST regulations

Thank you – I'm not sure how these comments didn't get sent but I'll take responsibility. I hope that this doesn't hold up any of the ongoing approvals.

Dennis J. McChesney, Ph.D., MBA  
Team Leader  
UST Team  
U.S. EPA Region 2  
290 Broadway  
New York, NY 10007-1866  
Voice (212) 637- 4232  
Fax (212) 637- 4211

From: Ospina, Janneth [mailto:JannethOspina@jca.gobierno.pr]  
Sent: Thursday, January 30, 2014 10:32 AM  
To: McChesney, Dennis  
Cc: Garcia Hernandez, Wanda  
Subject: RE: Draft Final EQB Revised UST regulations

Importance: High

Hi Dennis, I didn't receive these comments until today. I received on December 16 another comments from Paul Miller that were attended. In this moment the Draft Final is ready to the next meeting of Governing Board next week; may be these comment can be attended in the public comments period, are you according with that?. It because we don't want delay more the process to public comments and public hiring according with the timing tie that we have. Please let me know if you are according with me. Thanks

Janneth Ospina  
Oficial de Permisos II  
División de Control de Tanques Soterrados Area de Calidad de Agua  
Tel: 787-7678181 ext 3533  
jannethospina@jca.gobierno.pr<mailto:jannethospina@jca.gobierno.pr>

From: McChesney, Dennis [mailto:McChesney.Dennis@epa.gov]  
Sent: Thursday, January 30, 2014 8:55 AM  
To: Ospina, Janneth  
Cc: Garcia Hernandez, Wanda  
Subject: FW: Draft Final EQB Revised UST regulations

Janneth – did you receive these comments from EPA's attorney? I'm not certain that they were forwarded to you. I also sent you comments from OUST in December. Were those comments addressed? EPA would like to see a copy of the current version of the regulations.

Thank you,

Dennis

Dennis J. McChesney, Ph.D., MBA  
Team Leader  
UST Team  
U.S. EPA Region 2  
290 Broadway  
New York, NY 10007-1866  
Voice (212) 637- 4232  
Fax (212) 637- 4211

From: Taylor, Karen  
Sent: Thursday, December 12, 2013 8:06 PM  
To: McChesney, Dennis  
Cc: Sawyer, William; Halley, Margaret; Moy, Ton  
Subject: RE: Draft Final EQB Revised UST regulations

FYI - The Appendices were not attached to the email below.

#### CHANGES TO REVIEW/DISCUSS

Rule 807 B.1. Piping: "corrodible" replaced with "corrosive" Two different meanings. Piping should be non-corrodible.  
C.1.b.i. Spill and Overfill Prevention Equipment: Automatically shut-off the flow into the tank when the tank is no more ninety five (95) not ninety nine (99) percent full.

Rule 815 Compatibility. Section C. on record maintenance deleted.

C. Owners and operators must maintain the following records in accordance Rule 817 for the life of the equipment or component:

1. Documentation of compliance with paragraph B. of this Rule, as applicable; and
2. Records of all equipment or components installed or replaced after [effective date of rule]. At a minimum, each record must include the date of installation or replacement, manufacturer, and model.

Rule 816 Repairs Allowed. Section G. on record maintenance deleted.

G. UST system owners and operators must maintain records in accordance with Rule 817 of each repair until the UST system is permanently closed or undergoes a change-in-service pursuant to Rule 851.

Note that Rule 817 Reporting and Recordkeeping has general references to records for compatibility and repairs, but lacks the specifics.

Rule 863. Applicability. Financial Responsibility. Removed language that made it clear that both owner and operators were liable for noncompliance. "If the owner and operator of a petroleum underground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in the event of noncompliance."

Rule 864. All Financial Responsibility definitions deleted.

Rule 865. Amount and Scope. Per-occurrence minimum amounts deleted.

Rule 867. Financial Test of Self Insurance. Template for "Letter From Chief Financial Officer" deleted.

Rule 868. Corporate Guarantee template deleted.

Rule 869. Insurance and Risk Retention Group Coverage. Endorsement and Certificate of Insurance templates deleted.

Rule 870. Surety Bond. Performance Bond template deleted.

Rule 871. Letter of Credit. Irrevocable Standby Letter of Credit template deleted.

Rule 872. Trust Fund. Trust Agreement template deleted.

#### \*DELETED RULES\*

After Rule 873, all Rules for local government financial responsibility deleted.

Local Government Bond Rating Test

Local Government Financial Test

Local Government Guarantee

Local Government Fund

#### TYPOS AND OTHER CHANGES...

Typo: Page 8 List of Appendices III 40 CFR Parte 302

803 EQB added exclusions to B; paragraphs 9-16

804 Interim Prohibition changed to 'no person may install an excluded UST system for the purpose of storing regulated substances.' Removed corrosion protection language.

805 Definition intro paragraph deleted.

"De minimus" definition deleted. Replaced with "Minim" definition.

Change to "hazardous substance" definition.

72. Local Government: "municipalities or other created by law..." Other what?

Typo: #83. NFPAL should be NFPA (National Fire Protection Association)

Typo: #101. Public water system ...with at least fifty (15) ...

Typo: #125 applicable to "UST" should be "UST Systems"

#132 Training: Removed reference to approval by EQB.

Typo: #135 Training School Administrator .... "Guess" should be "Guest" Instructors.

#151 Violation: removed reference to Energy Policy Act

809 Removed reference to EPA Notification Form.

Also, "Registration" may be more appropriate than "Register" in section title and under letters G & H.

811 B.2. Typo: "can be carry out" carried out

Rule 828 General RD Requirements A.3. Changed "annually" to "one (1) time per year." Still required to submit to EQB with annual permit renewal, so may be equivalent.

Note: Parts V & VI. Some edits to suspected release notification and response rules.

Typo: Rule 865 D. "no sudden" should be "nonsudden"

Typo: Rule 867 C.4. "counter" should be "accountant"

Karen L. Taylor  
Office of Regional Counsel  
USEPA - Region 2  
290 Broadway, 16th Floor  
New York, NY 10007-1866  
phone: 212-637-3637  
fax: 212-637-3199  
email: Taylor.Karen@epa.gov<mailto:Taylor.Karen@epa.gov>

Note that this message may contain privileged material, including attorney-client or attorney work product. If you inadvertently received this email, please contact Karen Taylor at the address above.

From: Taylor, Karen  
Sent: Thursday, December 05, 2013 4:50 PM  
To: McChesney, Dennis  
Subject: RE: Draft Final EQB Revised UST regulations

No problem. Will do.

From: McChesney, Dennis  
Sent: Thursday, December 05, 2013 4:48 PM

To: Taylor, Karen  
Subject: FW: Draft Final EQB Revised UST regulations

Karen – I apologize for having sent these to Rudy and not you – a mix up on my part. We're looking to have EPA approval so that EQB can public notice by the end of the year so that they are back into compliance with the Term and Condition of their grant to have acceptable EPA regulations public noticed. I'm hoping for comments by December 16. FYI Margaret Halley broke her hip and is out of the office for a while.

Dennis J. McChesney, Ph.D., MBA  
Team Leader  
UST Team  
U.S. EPA Region 2  
290 Broadway  
New York, NY 10007-1866  
Voice (212) 637- 4232  
Fax (212) 637- 4211

From: McChesney, Dennis  
Sent: Tuesday, November 26, 2013 1:30 PM  
To: Perez, Rudolph; Kwan, ChoYi  
Cc: Sawyer, William; Halley, Margaret; Moy, Ton  
Subject: Draft Final EQB Revised UST regulations

Attached please find the revised draft final PREQB UST regulations for your review. See the attached incoming message for the descriptions of the attachment and the timeline for promulgation. Please provide any comments to me by COB December 16, 2013.

Thank you

Dennis J. McChesney, Ph.D., MBA  
Acting Chief  
RCRA Compliance Branch  
U.S. EPA Region 2  
290 Broadway  
New York, NY 10007-1866  
Voice (212) 637- 4232  
Fax (212) 637- 4211

From: Ospina, Janneth [mailto:JannethOspina@jca.gobierno.pr]  
Sent: Tuesday, November 26, 2013 10:19 AM  
To: Moy, Ton; McChesney, Dennis; Halley, Margaret  
Subject: RE: EQB State Regulations

Janneth Ospina  
Oficial de Permisos II  
División de Control de Tanques Soterrados Area de Calidad de Agua  
Tel: 787-7678181 ext 3533  
jannethospina@jca.gobierno.pr<mailto:jannethospina@jca.gobierno.pr>

From: Ospina, Janneth

Sent: Tuesday, November 26, 2013 10:04 AM

To: 'Moy, Ton'; 'McChesney, Dennis'; 'Halley, Margaret'

Cc: Garcia Hernandez, Wanda; Arroyo Rivera, Hector; Melendez Colon, Suzette; Acosta Camacho, Samuel; Diaz Gonzalez, Hector; Rodriguez Rodriguez, Ines

Subject: EQB State Regulations

Importance: High

Hi Margaret/Dennis/Ton

I am writing to follow up the concern about EQB State Regulation. As attachment I send you a zip file with the next documents:

1. Compared English EPA-English EQB - Nov 26 2013: This document is the comparison of EPA version October 2013 and EQB version November 2013.
2. English version UST Regulation Draft Final - Nov 26 2013: This document is the translation of Spanish version made for our lawyer Lcdo. Acosta, Lcdo Diaz and me.
3. Spanish version UST Regulation Draft Final - Nov 26 2013: This document is the draft final version of EQB Regulation revised from EPA Spanish version October 2013.
4. APENDICES-Spanish version UST Regulation Draft Final - Nov 26 2013: This document have the appendixes of Spanish UST Regulation Draft Final - Nov 26 2013
5. APPENDICES-English version UST Regulation Draft Final - Nov 26 2013: This document have the appendixes of English UST Regulation Draft Final - Nov 26 2013
6. Appendice of PARPCPTAS: This document have the appendixes of PARPCPTAS and PARCUST

Now, the next steps are:

1. EPA Revision of Draft Final: English and Spanish UST Regulation Draft Final - Nov 26 2013
2. EQB Governing Board Revision of Draft Final: English and Spanish UST Regulation Draft Final - Nov 26 2013
3. EQB Governing Board Approval of Draft Final and issue the public notice to comment period
4. Conduct after comment period, the Public Hiring
5. Official examiner's report
6. Issue the Final Version of EQB UST Regulation
7. EQB Governing Board Approval of Final Version of EQB UST Regulation
8. Present the Final Version of EQB UST Regulation to the Puerto Rico State Department
9. Final Version of EQB UST Regulation shall go into effect 30 days after date of filling it at the Puerto Rico State Department

Questions:



- With respect to the EPA Revision of Draft Final and EQB Governing Board Revision of Draft Final, is necessary wait until EPA approve the Draft for EQB Governing Board can approve the Draft and issue the public notice?
- If the answer is YES, how many time EPA need to review the Draft? It is necessary to know when the Governing Board can set the meeting for approval the Draft.
- Important Note: Is quite possible that EQB close in the Christmas period from 23 December 2013 to 6 January 2014.

If have problems with the attachment please let me know. I hope that all will be ok for you and the Draft can be approved soon. Thanks for your help and for all the help from our staff in order to comply with this task! Thanks to all !

Janneth Ospina  
 Permits Officer II  
 Underground Storage Tank Control Division Water Quality Area  
 Phone: 787-7678181 ext 3533  
[jannethospina@jca.gobierno.pr](mailto:jannethospina@jca.gobierno.pr)<mailto:jannethospina@jca.gobierno.pr>